

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 207.6, 207.7, 207.12(1)“b,” 207.18 and 207.19, the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 40, “Coal Mining,” Iowa Administrative Code.

The proposed amendments update references to the applicable provisions in the Code of Federal Regulations.

Any interested persons may make written comments or suggestions on the proposed amendments on or before 4:30 p.m. on May 10, 2011. Written comments should be sent to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division’s general waiver provisions.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 207.

The following amendments are proposed.

ITEM 1. Amend subrule 40.1(1) as follows:

40.1(1) Parts and sections of the federal regulations of the U.S. Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, promulgated pursuant to the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), are incorporated by reference as rules of the division as specified in this chapter, with exceptions as indicated. Rules incorporated by reference, as specified in each specific rule, are those from the Code of Federal Regulations (30 CFR), as in effect on July 1, ~~2002~~ 2010.

ITEM 2. Amend rule 27—40.3(207), introductory paragraph, as follows:

27—40.3(207) General. The following is incorporated by reference: 30 CFR Part 700, as in effect on July 1, ~~2002~~ 2010, except for 30 CFR 700.1, 700.2, 700.3, 700.4, 700.10 and 700.12. The phrase “section 520 of the Act” is deleted from 30 CFR 700.13(a) and the words “Iowa Code section 207.17” are inserted in lieu thereof.

ITEM 3. Amend rule 27—40.4(207), introductory paragraph, as follows:

27—40.4(207) Permanent regulatory program and exemption for coal extraction incidental to the extraction of other minerals. The following is incorporated by reference: 30 CFR Part 701 and 30 CFR Part 702, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 4. Amend rule 27—40.5(207), introductory paragraph, as follows:

27—40.5(207) Restrictions on financial interests of state employees. The general word substitutions used elsewhere in these rules do not apply to Iowa’s incorporation of 30 CFR Part 705. The following is incorporated by reference: 30 CFR Part 705, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 5. Amend rule 27—40.6(207), introductory paragraph, as follows:

27—40.6(207) Exemptions for coal extraction incident to government-financed highway or other constructions. The following is incorporated by reference: 30 CFR Part 707, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 6. Amend rule 27—40.7(207), introductory paragraph, as follows:

27—40.7(207) Protection of employees. The following is incorporated by reference: 30 CFR Part 865, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 7. Amend rule 27—40.11(207), introductory paragraph, as follows:

27—40.11(207) Initial regulatory program. The following is incorporated by reference: 30 CFR Part 710, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 8. Amend rule 27—40.12(207), introductory paragraph, as follows:

27—40.12(207) General performance standards—initial program. The following is incorporated by reference: 30 CFR Part 715, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 9. Amend rule 27—40.13(207), introductory paragraph, as follows:

27—40.13(207) Special performance standards—initial program. The following is incorporated by reference: 30 CFR Part 716, as in effect on July 1, ~~2002~~ 2010, with the following exception:

ITEM 10. Amend rule 27—40.21(207), introductory paragraph, as follows:

27—40.21(207) Areas designated by an Act of Congress. The following is incorporated by reference: 30 CFR Part 761, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 11. Amend rule 27—40.22(207), introductory paragraph, as follows:

27—40.22(207) Criteria for designating areas as unsuitable for surface coal mining operations. The following is incorporated by reference: 30 CFR Part 762, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 12. Amend rule 27—40.23(207), introductory paragraph, as follows:

27—40.23(207) State procedures for designating areas unsuitable for surface coal mining operations. The following is incorporated by reference: 30 CFR Part 764, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 13. Amend rule 27—40.30(207), introductory paragraph, as follows:

27—40.30(207) Requirements for coal exploration. The following is incorporated by reference: 30 CFR Part 772, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 14. Amend rule 27—40.31(207), introductory paragraph, as follows:

27—40.31(207) Requirements for permits and permit processing. The following is incorporated by reference: 30 CFR Part 773, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 15. Amend rule 27—40.32(207), introductory paragraph, as follows:

27—40.32(207) Revision or amendment; renewal; and transfer, assignment, or sale of permit rights. The following is incorporated by reference: 30 CFR Part 774, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 16. Amend rule 27—40.33(207), introductory paragraph, as follows:

27—40.33(207) General content requirements for permit applications. The following is incorporated by reference: 30 CFR Part 777, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 17. Amend rule 27—40.34(207), introductory paragraph, as follows:

27—40.34(207) Permit application—minimum requirements for legal, financial, compliance, and related information. The following is incorporated by reference: 30 CFR Part 778, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 18. Amend rule 27—40.35(207), introductory paragraph, as follows:

27—40.35(207) Surface mining permit applications—minimum requirements for information on environmental resources. The following is incorporated by reference: 30 CFR Part 779, as in effect on July 1, ~~2002~~ 2010, except as modified by subrule 40.1(3) and with the following exceptions:

ITEM 19. Amend rule 27—40.36(207), introductory paragraph, as follows:

27—40.36(207) Surface mining permit applications—minimum requirements for reclamation and operation plan. The following is incorporated by reference: 30 CFR Part 780, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions and clarifications:

ITEM 20. Amend rule 27—40.37(207), introductory paragraph, as follows:

27—40.37(207) Underground mining permit applications—minimum requirements for information on environmental resources. The following is incorporated by reference: 30 CFR Part 783, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions:

ITEM 21. Amend rule 27—40.38(207), introductory paragraph, as follows:

27—40.38(207) Underground mining permit applications—minimum requirements for reclamation and operation plan. The following is incorporated by reference: 30 CFR Part 784, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions and clarifications:

ITEM 22. Amend rule 27—40.39(207), introductory paragraph, as follows:

27—40.39(207) Requirements for permits for special categories of mining. The following is incorporated by reference: 30 CFR Part 785, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 23. Amend rule 27—40.41(207), introductory paragraph, as follows:

27—40.41(207) Permanent regulatory program—small operator assistance program. The following is adopted by reference: 30 CFR Part 795, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 24. Amend rule 27—40.51(207), introductory paragraph, as follows:

27—40.51(207) Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs. The following is incorporated by reference: 30 CFR Part 800, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 25. Amend rule 27—40.61(207), introductory paragraph, as follows:

27—40.61(207) Permanent program performance standards—general provisions. The following is incorporated by reference: 30 CFR Part 810, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 26. Amend rule 27—40.62(207) as follows:

27—40.62(207) Permanent program performance standards—coal exploration. The following is incorporated by reference: 30 CFR Part 815, as in effect on July 1, ~~2002~~ 2010.

ITEM 27. Amend rule 27—40.63(207), introductory paragraph, as follows:

27—40.63(207) Permanent program performance standards—surface mining activities. The following is incorporated by reference: 30 CFR Part 816, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3), 40.1(4), and 40.1(5) and with the following exceptions:

ITEM 28. Amend rule 27—40.64(207), introductory paragraph, as follows:

27—40.64(207) Permanent program performance standards—underground mining activities. The following is incorporated by reference: 30 CFR Part 817, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3), 40.1(4), and 40.1(5) and with the following exceptions:

ITEM 29. Amend rule 27—40.65(207) as follows:

27—40.65(207) Special permanent program performance standards—auger mining. The following is incorporated by reference: 30 CFR Part 819, as in effect on July 1, ~~2002~~ 2010.

ITEM 30. Amend rule 27—40.66(207) as follows:

27—40.66(207) Special permanent program performance standards—operations on prime farmland. The following is incorporated by reference: 30 CFR Part 823, as in effect on July 1, ~~2002~~ 2010, except for 30 CFR 823.11(a) which is deleted.

ITEM 31. Amend rule 27—40.67(207), introductory paragraph, as follows:

27—40.67(207) Permanent program performance standards—coal preparation plants not located within the permit area of a mine. The following is incorporated by reference: 30 CFR Part 827, as in effect on July 1, ~~2002~~ 2010, except for the following:

ITEM 32. Amend rule 27—40.71(207), introductory paragraph, as follows:

27—40.71(207) State regulatory authority—inspection and enforcement. The following is incorporated by reference: 30 CFR Part 840, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 33. Amend rule 27—40.74(207), introductory paragraph, as follows:

27—40.74(207) Civil penalties. The following is incorporated by reference: 30 CFR Part 845, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 34. Amend rule 27—40.75(207), introductory paragraph, as follows:

27—40.75(207) Individual civil penalties. The following is adopted by reference: 30 CFR Part 846, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 35. Amend rule 27—40.81(207), introductory paragraph, as follows:

27—40.81(207) Permanent regulatory program requirements—standards for certification of blasters. The following is incorporated by reference: 30 CFR Part 850, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 36. Amend rule 27—40.82(207), introductory paragraph, as follows:

27—40.82(207) Certification of blasters. The following is incorporated by reference: 30 CFR Part 955, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 37. Amend subrule 40.92(8) as follows:

40.92(8) A request to conduct mining in areas where otherwise prohibited by Iowa Code section 207.8 and 30 CFR 761.11, revised July 1, ~~2002~~ 2010.